

REMARKS

1. Introduction

In the final Office Action mailed June 8, 2010, the Examiner rejected claims 1 and 3-32 under 35 U.S.C. § 103(a) as being unpatentable over Weingardt et al., U.S. Patent No. 5,275,400 (“Weindgardt”) in view of Torango, U.S. Patent No. 6,592,460 (“Torango”).

In response, Applicant has amended claims 1, 5, 7-10, 12-14, 16, 17, 19, 21, 23-26, 28-30, and 32, and Applicant has canceled claims 11, 18, and 27.

For the reasons set forth below, Applicant requests reconsideration and allowance of the claims, as amended herein.

2. Response to the rejections under § 103

a. Claims 1, 3-10, and 12-16

Of these claims, claim 1 is independent. The Examiner has rejected claim 1 under § 103 as being unpatentable over Weingardt in view of Torango.

Applicant has amended claim 1 to recite, *inter alia*, “a plurality of player terminals, wherein each player terminal is operable by a respective player to select any of a plurality of different games of chance for play and to place a wager on the selected game of chance” and “an accumulation facility configured to accumulate in an accumulation account a portion of each wager made on any of the plurality of different games of chance using any of the plurality of player terminals.” These amendments are supported by Applicant’s specification, for example, at page 10, lines 6-18.

Applicant has further amended claim 1 to specify that the “determination facility is configured to determine ... the determinable portion of the contents of the accumulation account

as a function of ... the jackpot cycle of the player's selected game of chance." This further amendment is supported by Applicant's specification, for example, at page 11, line 22 – page 12, line 17.

Applicant submits that amended claim 1 is clearly allowable over Weingardt in view of Torango, as set forth below.

1. *Weingardt does not teach "a plurality of player terminals, wherein each player terminal is operable by a respective player to select any of a plurality of different games of chance for play."*

Weingardt discloses principles that can be applied to an electronic video poker game, an electronic slot machine, an electronic twenty-one game, or an electronic craps game. *See* col. 3, lines 48-54. However, Weingardt does not disclose a gaming machine that is "operable by a respective player to select any of a plurality of different games of chance for play," as recited in claim 1.

In fact, Weingardt teaches away from a gaming machine that can be used to play any of a plurality of different games of chance because Weingardt teaches adherence to the "pari-mutuel" approach to gaming. *See* col. 1, lines 21-24 and col. 2, lines 41-44. In the pari-mutuel approach, the players share the total stakes wagered on a given event or game, less a percentage for the house. *See* col. 1, lines 38-44. A player initially deposits money into the gaming machine, and this initial deposit is registered to a common pari-mutuel pool, less a portion designated for the gaming establishment. *See* col. 7, lines 27-35 and lines 55-67. A plurality of gaming machines can be linked together as a bank of machines that all contribute to the same common pool. *See* col. 7, line 67- col. 8, line 2. When the player cashes out, the player's payout is determined as a portion of the common pool. *See* col. 8, lines 3-20. Thus, it is necessary for the integrity of the common pool and the pari-mutuel approach that each gaming machine be used for only one

particular game and for the player's deposited funds to remain with the common pool associated with that particular game:

By definition, pari-mutuel-type wagering in essence is simply a system whereby all players are competing for a common pool of funds. Although it may be necessary, in application, to expand the parameters of this definition as it applies to a particular goal in the evolution of pari-mutuel gaming, this precise definition must remain the constant reference point for the integrity of the concept itself.

See col. 15, lines 11-18. In this way, Weingardt teaches away from a player terminal in which the player can select a game of chance from among a plurality of different games of chance.

Applicant submits that Torango does not make up for this deficiency in Weingardt. Moreover, by teaching away from a player terminal that is operable by the player to select any of a plurality of different games of chance for play, Weingardt cannot be combined with other art to try to reach the subject matter of amended claim 1. *See* MPEP § 2145(X)(D)(2) ("It is improper to combine references where the references teach away from their combination.").

For this reason alone, Applicant submits that amended claim 1 is allowable over Weingardt in view of Torango.

2. *Weingardt does not teach "an accumulation facility configured to accumulate in an accumulation account a portion of each wager made on any of the plurality of different games of chance using any of the plurality of player terminals."*

Applicants have amended claim 1 to clarify that the "accumulation facility" is configured to accumulate in the accumulation account a portion of each wager made on *any* of the plurality of different games of chances using any of the plurality of player terminals. Thus, as different games of chance are played using the player terminals, the accumulation facility accumulates portions of the wagers made on each of these different games of chance into the accumulation account.

In contrast, Weingardt teaches that progressive pools (and future pools that can be used to fund future progressive pools) are fed by money from a common pool. *See* col. 8, lines 21-31 and Figure 2. As discussed above, Weingardt teaches that a common pool is funded by money deposited for one particular game. Since a progressive pool is fed by the common pool, the progressive pool is also funded by money deposited for one particular game. Indeed, Weingardt teaches that this is necessary in the para-mutuel approach in order to maintain the integrity of the common pool. For example, a common pool may borrow from a seed pool in order to fund a progressive pool; however, any borrowed funds must be paid back as soon as possible, and funds from the common pool should not be allowed to intermingle with funds from the seed pool. *See* col. 5, line 60 – col. 6, line 2.

Thus, Weingardt fails to disclose and actually teaches away from an accumulation facility that accumulates portions of wagers placed on different games of chance, as recited in amended claim 1. Further, because of Weingardt’s teaching away, Weingardt cannot be combined with other art to try to reach the subject matter of amended claim 1. *See* MPEP § 2145(X)(D)(2)(“It is improper to combine references where the references teach away from their combination.”).

For this reason also, Applicant submits that amended claim 1 is allowable over Weingardt in view of Torango.

3. *Weingardt does not teach “a determination facility ... configured to determine ... the determinable portion of the contents of the accumulation account as a function of ... the jackpot cycle of the player’s selected game of chance.”*

The Examiner appears to have overlooked the element of each game’s “jackpot cycle” recited in claim 1. In this regard, claim 1 recited each game of chance “having a corresponding jackpot cycle.” But the Examiner’s rationale for rejecting claim 1 does not mention this claim language. *See* Final Office Action, p. 2. Instead, the Examiner alleged that “Weingardt teaches

a determination facility responsive to a placement of the wager to determine, prior to activation of the event a portion of the contents of the accumulation account as a function of ... c) the relative jackpot cycles of the plurality of different games of chance.” *See* Final Office Action, pp. 2-3. As basis, the Examiner cited to col. 1, lines 1-10 and col. 4, line 45-col. 5, line 12. But neither of these cited sections refers to a determinable portion of the contents of an accumulation account (i.e., a portion that is won upon occurrence of the favourable outcome) being determined as a function of a jackpot cycle. Thus, Applicant submits that Weingardt does not teach a determination facility configured to determine a determinable portion as a function of “the jackpot cycle of the player’s selected game of chance,” as recited in amended claim 1. If the Examiner believes otherwise, the Examiner is respectfully requested to point out what specific disclosure in Weingardt the Examiner believes corresponds to this element.

Applicant submits that Torango does not make up for this deficiency in Weingardt. Instead of teaching a determinable portion of the contents of an accumulation account, Torango teaches that the entire accumulated amount is awarded as a progressive prize. *See* col. 7, lines 38-43 and lines 49-53.

Accordingly, Applicant submits that claim 1, as amended, is allowable over Weingardt and Torango for at least the foregoing reasons. Applicant further submits that claims 2-10 and 12-16 are allowable for at least the reason that these claims are dependent upon an allowable claim.

b. Claims 17, 19-26, and 28-32

Of these claims, claim 17 is independent. The Examiner has rejected claim 17 under § 103 as being unpatentable over Weingardt in view of Torango. Applicant has amended claim 17 to recite, *inter alia*, “using a computer workstation to select a game of chance from among a

plurality of different games of chance for play by a player” (*see* page 10, lines 12-15 of Applicant’s specification) and “determining ... the determinable portion of the contents of the accumulation account as a function of ... the jackpot cycle of the player’s selected game of chance” (*see* page 11, line 22 – page 12, line 17).

Applicant submits that amended claim 17 is clearly allowable over Weingardt in view of Torango. As discussed above for claim 1, Weingardt does not disclose and actually teaches away from a player terminal that is operable by the player to select any of a plurality of different games of chance for play. Thus, Weingardt teaches away from “using a computer workstation to select a game of chance from among a plurality of different games of chance for play by a player,” as recited in amended claim 17.

As discussed above for claim 1, Weingardt does not teach a determination facility configured to determine a determinable portion of the contents of an accumulation account as a function of the jackpot cycle of the player’s selected game of chance. Further, Torango does not make up for this deficiency in Weingardt. Thus, Weingardt in view of Torango does not teach “determining ... the determinable portion of the contents of the accumulation account as a function of ... the jackpot cycle of the player’s selected game of chance,” as recited in amended claim 17.

Accordingly, Applicant submits that claim 17, as amended, is allowable over Weingardt and Torango for at least the foregoing reasons. Applicant further submits that claims 19-26 and 28-32 are allowable for at least the reason that these claims are dependent upon an allowable claim.

3. **Conclusion**

Applicant submits that the present application is in condition for allowance, and notice to that effect is hereby requested. Should the Examiner feel that further dialog would advance the subject application to issuance, the Examiner is invited to telephone the undersigned at any time at (312) 913-0001.

Respectfully submitted,

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